

EXHIBIT 3

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**NATHALY CORTEZ, individually and
on behalf of similarly situated
individuals**

Plaintiff

v.

CASA DO BRASIL, LLC

Defendant

CIVIL ACTION NO. 4:21-cv-03991

DECLARATION OF JOSEPH FELAN

Joseph Felan declares as follows:

1. “My name is Joseph Felan. The facts contained in this Declaration are within my personal knowledge and are true and correct. I am fully qualified to make this Declaration.

2. I am a former employee of Casa do Brasil, LLC (“Casa do Brasil” or “Defendant”). I worked for Casa do Brasil from the day they opened until recently as a bartender.

3. As a bartender, my job duties included taking drink and food orders, and assisting customers with the menu. There were customers that came in exclusively to see me and I served by myself. However, I still had to give the cash tip to the tip pool.

4. When I looked at my paychecks, it looks like I was paid an hourly rate of less than \$7.25 an hour. It was closer to \$2.13 an hour and tips. My customers paid me tips in cash and by credit card.

5. Casa made us participate in a tip pool by putting all of our cash tips into a cash tip box each shift. At the end of the evening, the tips would be divided equally by everyone that worked on the shift including CSRs, bartenders, servers, and Gaucho. The CSRs participated in the tip pool and collected money from the tips that we earned.

6. Because they collected money from the tip pool, the CSR would get tips from customers they didn't serve directly or exclusively.

7. I regularly worked overtime. Casa did not pay me time and a half for all the hours I worked over 40 a week.

8. Cameron Rogneby, the CSR took money from the tip pool.

9. Regis Cerutti, CSR and beverage director also took from the tip pool. I watched him collect money from the cash tips.

10. I attended open meetings where Israel, one of the owners, said that if you don't take care of table and a ticket walks out, or there were drinks left over on tab, the cash tips would be paid from the server pool. Casa required us to pay for any mistakes made by any bartenders or servers on a shift by deducting cash tips from the tip pool that day.

11. The CSR who worked at Casa had management duties and authorities.

12. No one is allowed into the manager's office. There are cameras in there. Only managers and CSRs are allowed into the manager's office. There are employee files in the manager's office. No one had access employee files except the manager. I am personally aware of a CSR who was able to enter into the manager's office and look up my pay rate on the company's computer.

13. The CSR supervised the dining areas and told us what to do. I saw the CSR, assign closing duties.

14. CSRs often closed the restaurant.

15. Only Management and CSR had the code to make comps or voids.

16. The CSR would handle calls from employees who called in sick or called out for a shift. We would have to call the CSR for permission if we were going to call out on a shift. The CSR would also do inventory, run meetings, and other manager duties.

17. CSR and had different job duties than bartenders, servers, and gaucho. They did inventory and prepared our schedules.

18. If a Tipped Employee needed a comp we would have to go through the CSR. Any discount or compo have to go through them. If you want a transfer move a table or item from table wrong table. If a customer wanted to return an item or changed his/or her mind, we would have to ask a CSR permission because only they had the manager code to change the order.

19. Regis Cerutti was the beverage director. He taught us how to make the drinks. He was a manager, told us what to do, and would run the staff meetings. He was one of the top managers and took cash tips from the tip pool.

20. All the managers wore the same blue shirts. The blue shirts were reserved only for managers. The CSR wore the same blue shirts as the other managers.

21. I saw the CSR supervise the dining room. The dining room was divided into sections 1-4. Then there was a bar section, a patio section and a "Cigar patio" section for customers who wanted to smoke cigars. The CSRs told the server which section to work. It was normal thing.

22. Since the CSR regularly supervised 2 or more employees because they supervised the servers, bartenders, and Gauchos working each shift.

23. Casa required us to pool our cash tips and participate in a tip pool. At the end of the night, everyone that worked in the shift would get an equal share of the tips. I saw that the CSR was part of the tip pool and received cash tips. Since the cash tips were from all customers that gave a tip during the shift, the CSR received tips from customers that they did not serve or customers that they solely served. Serving customers was a team effort and no customer was served by 1 person alone.

24. The CSR tells the servers, bartenders, and Gauchos who worked on the floor, if anything needed to be done. The CSRs told me which section to work. It was normal thing.

25. The CSR and Beverage Director participated in the tip pool.

26. The CSR and Beverage Director received tips from customers that they did not serve directly or exclusively. I know this because as a bartender, I was tipped in cash from customers that I directly and exclusively served. I then had to put my cash tip into the tip pool that was shared with the CSR and Beverage director received cash.

27. Casa required us to pool our cash tips and participate in a tip pool. At the end of the night, everyone that worked in the shift would get an equal share of the tips. I saw that the CSR was part of the tip pool and received cash tips. Since the cash tips were from all customers that gave a tip during the shift, the CSR received tips from customers that they did not serve or customers that they solely served. Serving customers was a team effort and no customer was served by 1 person alone.

28. I declare under penalty of perjury that the foregoing is true and correct.”

Executed on the 20 day of September, 2022.



Joseph Felan